

MOHAMED SABA, )  
 )  
 Plaintiff, ) No. 07 CV 2401  
 ) JUDGE SHADUR  
 v. )  
 )  
 RUTH DOROCHOFF, ET AL., )  
 )  
 Defendants. )

NOW COMES Your Plaintiff, MOHAMED SABA, Case No. 07 CV 2401, by and through his own and proper person and through his attorneys, THE LAW OFFICES OF KRIEZELMAN BURTON & ASSOCIATES, LLC, and hereby Motions this Honorable Court to enter an order in favor of his request for relief, and in support thereof, states as follows:

2. That on May 18, 2007, this Honorable Court entered an order granting your Plaintiff's Petition for Writ of Mandamus.

3. That on May 25, 2007, a Motion was filed on

behalf of the Defendants requesting that this Honorable Court reconsider it's order against them and allow an answer to the subject complaint.

4. That on June 1, 2007, the Motion was entered and continued to allow the Defendants to answer the complaint.

Further, the subject answer was filed on July 2, 2007.

5. That on August 13, 2007, the parties again appeared on a status call where the Defendants switched their arguments and indicated that they were now unwilling to expedite an application for adjustment of status.

6. That we urge this Honorable Court to assume jurisdiction in the subject matter and grant the Petition for Writ of Mandamus.

This is not without precedent where the Court of Appeals found jurisdiction in *Iddir v. INS*, 301 F.3d 492. 500 (7<sup>th</sup> Cir. 2002) and *Hoosier Care v. Chertoff*, 482 F.3d 897(7<sup>th</sup> Cir. 2007) to require the U.S. Citizenship & Immigration Services and Federal Bureau of Investigations or any government agency to follow their own regulations, statutes and procedures.

7. That when the language of a statute or regulation is mandatory and not discretionary, jurisdiction vest in Mandamus before this Court. *Iddir v. INS*, 301 F.3d at 494.

With due regard to the convenience and necessity

of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter before it. 5 U.S.C. Section 555(b).

Further, as in this case, "each applicant for adjustment of status under this part shall be interviewed by an immigration officer" and "the applicant shall be notified of the decision of the Director" and if the application is denied, the reasons for the denial. 8 C.F.R. Section 245.2 and 8 C.F.R. Section 245.6. (See also 8 C.F.R. Section 209.2(f)).

8. That as the Attorney General's decision in this matter is mandatory and not discretionary, jurisdiction vests to enter an order against the government to compel it to render a decision.

Further, the Administrative Procedures Act, 5 U.S.C. Section 555(b) shall extend to the Federal Bureau of Investigations in a reasonable and timely manner before it.

WHEREFORE, for those reasons set out above, we respectfully pray as follows:

- A. That this Honorable Court assume jurisdiction.
- B. That an Order for a Writ of Mandamus be issued compelling the Federal Bureau of Investigations to complete its administrative functions.
- C. That an Order for Writ of Mandamus be issued against the U.S. Citizenship & Immigration Services compelling them to set the instant matter for an interview

before an Immigration officer or adjudicate the subject adjustment of status application.

D. For any and all other relief that may be just, fair and equitable in the premises.

Respectfully Submitted,  
Mohamed Saba, Plaintiff

/s/ Justin R. Burton, Esq.  
JUSTIN R. BURTON, ESQ.

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### **Certificate of Service**

The undersigned attorney certified that he caused Plaintiff's Motion for Relief and all attachments to be served upon the above named recipient by electronic delivery on August 14, 2007.

/s/ JUSTIN BURTON, ESQ.  
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